

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

UNITED STATES OF AMERICA

CRIMINAL NO.: 6:13-170

v.

GORDON L. HALL

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GOVERNMENT'S RESPONSE TO THE MOTION FOR A VARIANCE

On April 24, 2014, counsel for Hall filed a motion requesting that this Court sentence Gordon Hall below the advisory Guidelines range. The Government opposes this motion.

I. Counsel makes invalid comparisons.

The main argument made by counsel is that Lindsey Howell's and Benton Hall's Guideline calculations were much lower than Gordon Hall's and therefore concerns of fairness require that Gordon Hall should be sentenced under the advisory range. The Government disagrees.

First, counsel points out that Lindsey Howell's loss amount did not include the fictitious instruments in counts 5 through 8 of Gordon Hall's indictment. That is properly so. When Gordon Hall caused that setoff bonds and money orders to be created and tendered to the clerk's office, Lindsey Howell was incarcerated. Recorded jail conversations show that Howell had no part in the creation or tendering of these instruments. Certainly Howell was thankful that his friend Gordon Hall was working to secure his release, but Howell did not make or tender the instruments. Thus, it would have been very difficult for the Government to charge Howell for these instruments.

Second, counsel observes that Lindsey Howell was not charged with more than 250

victims. Again, this is properly so. Lindsey Howell was indicted for a conspiracy to steal profits from two clients who he persuaded to invest monies with Ron Wilson. In court, Howell's conduct was much like Gordon Hall's until Howell accepted responsibility for his wrongdoing and pled guilty to his indictment.

But for the cooperation from Lindsey Howell, the Government would have had a much more difficult time in bringing Gordon and Benton Hall to justice. Because of Howell's cooperation, the Government was able to indict the Halls in February 2013. Inasmuch as Howell had already pled guilty to serious federal charges and was cooperating, there was no point in officially adding him to the indictment charging Gordon and Benton Hall with obstruction of justice and wire fraud. This Court was already in a position to adequately punish Lindsey Howell.

Third, counsel notes that Benton Hall did not receive an enhancement for more than 250 victims. Benton Hall, although defiant and following the lead of his father, eventually cooperated with his appointed counsel and allowed her to negotiate with the Government concerning a guilty plea. Because of his willingness to conduct negotiations through counsel and his willingness to accept responsibility for his role in the offense, the Government allowed him to plead guilty to a conspiracy to obstruct justice and agreed to limit his loss amount and other enhancements. Heavily factoring into this decision was that Benton Hall had no previous criminal record and was clearly under the influence of his controlling and manipulative father.

II. Gordon Hall is not similarly situated with Howell and Benton Hall.

Unlike Howell and Benton Hall, Gordon Hall has 2 prior federal convictions for RICO violations and wire fraud. These were serious crimes wherein Gordon Hall was in league

with notorious crime families. Gordon Hall served federal time from 1999 to 2007. He lasted one year on supervised release before he was revoked in late 2008. His criminal activity in this case began just four years later in April 2012.

Howell and Benton Hall ultimately cooperated with their lawyers and allowed their lawyers to engage in plea negotiations with the Government. Gordon Hall, although having experienced appointed counsel who has many years of experience in the federal system, chose to ignore his lawyer and to engage in improper contact with the AUSA. Gordon Hall even had a fraudulent plea agreement filed in this case where the AUSA's "s/ signature" was placed on the document.

Howell and Benton Hall ultimately accepted responsibility for their acts. Gordon Hall has not. This very morning, the Government has received a communication from Hall entitled "NOTICE OF TENDER FOR SETOFF for the Count 2 liability in the SUPERSEDING INDICTMENT." This is but the most recent attempt to continue to use fictitious instruments and the redemption theory to avoid the consequences of his actions.

Gordon Hall was the leader of the fraud and conspiracy to obstruct justice. Recorded conversations and witness interviews show that Gordon Hall was the moving impetus in hiding assets and attempting to defraud the Receiver and the victims. Benton Hall and Lindsey Howell simply followed instructions given by Gordon Hall.

In sum, Howell and Benton Hall are not similarly situated with Gordon Hall. There are good and proper reasons why Hall's Guidelines calculation differs from the other two.

CONCLUSION

For the foregoing reason, this Court should deny the motion for a variance and sentence Gordon Hall to 240 months, which is the advisory range.

RESPECTFULLY SUBMITTED:

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